

FILED

MAY 25 2006

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff - Appellee,

v.

METROPOLIS HOLDINGS; EDWARD
GRAY,

Defendants

and

MARIO DISALVO; TFL
ENTERTAINMENT, INC., A California
Corporation,

Appellants.

No. 04-16342

D.C. No. CV-03-05538-AWI

MEMORANDUM^{*}

Appeal from the United States District Court
for the Eastern District of California
Anthony W. Ishii, District Judge, Presiding

Argued and Submitted May 18, 2006
San Francisco, California

Before: B. FLETCHER, KOZINSKI and FISHER, Circuit Judges.

^{*}This disposition is not appropriate for publication and may not be cited to
or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

Because the district court properly determined that the retainer lacked the defining characteristics of a true retainer, *see SEC v. Interlink Data Network of Los Angeles, Inc.*, 77 F.3d 1201, 1205 (9th Cir. 1996) (quoting *Baranowski v. State Bar of California*, 24 Cal. 3d 153, 164 n.4 (1979)), and because the court did not abuse its discretion in reducing the hourly rate or the number of hours Mario DiSalvo was entitled to be compensated for, *see Fair Housing of Marin v. Combs*, 285 F.3d 899, 907 (9th Cir. 2002), the district court's orders are **AFFIRMED**.